IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATIONS Nos 8416 & 8417 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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RASBIHARI DESAI

Versus

UNION OF INDIA

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Appearance:

MR AMAR N BHATT for Petitioners

MR AKSHAY H MEHTA for Respondents

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 19/04/2000

COMMON ORAL JUDGEMENT

Rule. Mr. Akshay Mehta waives service of rule on behalf of respondents in both these Special Civil Applications. The affidavit in reply dt.11.2.2000 has already been filed in both the matters. On the request of both the sides the matters were taken up for final

disposal right today.

Both these petitions are based on identical grievance arising out of similar facts involving common question and, therefore, I propose to decide both these petitions by this common judgment and order.

The petitioner in Special Civil Application No.8416/99 has come with the grievance that respondent No.2 herein i.e. Station Director of All India Radio, Ahmedabad had taken a decision to accept and broadcast regional songs recorded by private agencies for which composers of those songs would be paid Rs.500/- per song. This was way back in the year 1995 in the month of August. On 12.9.95 the petitioner No.1 submitted one spool of the title 'Ame Komal Komal" containing 9 songs for the approval of respondent No.2 and in December 1995 the petitioner No.2 had been informed to celebrate completion of 60 years of petitioner No.1. On 1.8.96 petitioners submitted 2 sets of cassettes released by them for preliminary scrutiny and broadcast. On 25.9.96 respondent No.2 informed the petitioner No.1 that the screening committee of the respondent No.2 had selected 12 songs out of the cassettes sent by petitioner No.1 and that the petitioners should transfer those songs on the magnetic spool and submit the same to respondent No.2. On 1.1.97 the petitioners submitted two spools containing 12 songs to respondent No.2. The respondent No.2 then sent a letter to the petitioner No.1 requesting the petitioners to wait for some time. Petitioner No.1 then sent a letter dt.11.2.97 to the respondent No.2. This was followed by a reminder dt.16.3.98. One more letter dt.3.8.98 was sent. However, no action was taken by the respondents for broadcasting the songs of the petitioners nor any payment was made by respondents to the petitioners, despite the fact that the spools containing valuable musical compositions of the petitioners are lying with the respondents for all these years.

The petitioner in Special Civil Application No.8417/99 has come with the case that respondent No.2 herein i.e. Station Director of All India Radio, Ahmedabad had taken a decision to accept and broadcast regional songs recorded by private agencies for which composers of those songs would be paid Rs.500/- per song. This was way back in the year 1995 in the month of August. On 16.8.95 the petitioner submitted cassettes containing his compositions. On 13.8.96 the screening committee of respondent No.2 accepted 20 songs of the petitioner. On 25.9.96 respondent No.2 informed petitioner to submit songs of the petitioner selected by

it in magnetic spools. On 18.12.96 petitioner submitted 4 spools containing his compositions by preparing them by hiring studio. On 5.2.97 respondent No.2 wrote a letter asking the petitioner to wait. Petitioner wrote a letter dt.20.9.97 to respondent No.2 pointing out about the expenditure incurred by him in preparing the spools containing his compositions. Petitioner made repeated reminders and requested to do the needful. Every time the petitioner was asked to wait. Till today the petitioner is not paid any amount inspite of promise and his spools containing his valuable compositions are in custody of respondent No.2.

Present Special Civil Applications dated 22.10.99 were filed before this Court on 25.10.99 with almost identical prayers. The notice returnable on 4.11.99 was issued on 26.10.99. In response to this notice an affidavit in reply dt.11.2.2000 has been filed by the concerned Director of All India Radio, Ahmedabad in both the matters. In para 5 of this reply it has been categorically stated that the petitioners will be paid all the legitimate dues under the terms of contract as soon as the contractual formalities are completed and contract is finalised. It has also been stated that All India Radio will also broadcast their songs upon the finalisation of the contracts. It has been further stated in para 6 of this affidavit-in-reply that the process of finalising the contract with the petitioners is still on and in all probabilities, it is likely to be finalised within a period of six months. It has been further stated that the respondents do not in any way intend to cause any humiliation or undue harassment to the petitioners. The respondents assure this Court that as soon as the contract is finalised, the petitioners will be paid the dues as stated above.

These replies bear the date of 11.2.2000 and by this time a period of 2 months has already expired. Only 4 months period now remain even out of the period of 6 months for finalisation of the contract, as has been mentioned in para 6 of the replies. It appears from the affidavit in reply that the respondents are willing to give the reliefs to the petitioners subject to the finalisation of the contracts. Mr. Akshay Mehta, learned counsel for the respondents, has made a very candid statement before this court that such contracts shall be finalised at the earliest possible opportunity. Mr. Akshay Mehta has also made a very candid statement that in case the contract is not finalised on or before 30.6.2000 in favour of the petitioners, it is undertaken before this Court on behalf of the respondents that the

spools of the petitioners would be returned to them alongwith all the expenses incurred by the petitioners in this task.

Accordingly it is directed that the question of finalisation of the contract shall be decided at the earliest possible opportunity, but in no case later than 30.6.2000 and the petitioners shall be duly compensated accordingly by payment of all the dues. With the directions and observations, as aforesaid, these Special Civil Applications are allowed. Rule is made absolute in both these petitions. Direct service is permitted.

(M.R.Calla,J)